MONTANA WETLANDS LEGACY PROJECTS
CONTRACT NUMBER: SPB04-878P-H

1. PARTIES

THIS CONTRACT, is entered into by and between the State of Montana Department of Administration, State Procurement Bureau (hereinafter referred to as "the State"), whose address and phone number are Room 165 Mitchell Building, 125 North Roberts St., PO Box 200135, Helena MT 59620-0135, (406) 444-2575 and **River Design Group, Inc.**, (hereinafter referred to as the "Contractor"), whose nine digit Federal ID Number, address and phone number are 75-3125545, 5098 US Highway 93 S, Whitefish MT 59937-8408, and (406) 862-4927.

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, DURATION, AND RENEWAL

2.1 Contract Term. This contract shall take effect upon full execution of all signatory parties, and terminate on June 30, 2009, unless terminated earlier in accordance with the terms of this contract. (Mont. Code Ann. § 18-4-313.)

2.2 Contract Renewal. This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be renewed in one-year intervals, or any interval that is advantageous to the State, for a period not to exceed a total of two additional years. This renewal is dependent upon legislative appropriations.

3. NON-EXCLUSIVE CONTRACT

The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is for the convenience of state agencies and is considered by the State Procurement Bureau to be a "Non-exclusive" use contract. Therefore, agencies may obtain this product/service from sources other than the contract holder(s) as long as they comply with Title 18, MCA, and their delegation agreement. The State Procurement Bureau does not guarantee any usage.

4. COOPERATIVE PURCHASING

Under Montana law, public procurement units, as defined in section 18-4-401, MCA, have the option of cooperatively purchasing with the State of Montana. Public procurement units are defined as local or state public procurement units of this or any other state, including an agency of the United States, or a tribal procurement unit. Unless the bidder/offeror objects, in writing, to the State Procurement Bureau prior to the award of this contract, the prices, terms, and conditions of this contract will be offered to these public procurement units.

5. SERVICES AND/OR SUPPLIES

Contractor agrees to provide the State with an expedited means of hiring qualified contractors to provide Wetland, Stream, and other Aquatic Resource restoration, enhancement, and development design and implementation for various projects around the State of Montana. This contract will be utilized primarily by FWP but other state agencies or public procurement units may utilize this contract in conjunction with wetland, stream, and other aquatic resource restoration, enhancement and development projects.

The Contractor may need to have access to engineering services depending on the nature of the project. The Contractor will be expected to use their own best judgment as to whether engineering services are needed for a given project. However, traditional engineering methodologies are not the emphasis of this contract. It is a violation of State Statute to practice engineering or land surveying without a license.

5.1 Design Expectations. FWP prefers stream restoration improvement techniques that simulate natural conditions and facilitate natural stream processes. The State is always open to new and innovative

approaches that accomplish project goals providing these techniques have proven success.

5.2 Contractor Responsibilities. The selected contractor for an individual project is responsible for the supervision and implementation of the designs and is responsible for oversight of work performed by all subcontractors. In most cases the contractor will provide and be responsible for all the necessary equipment, materials, supplies and personnel necessary for proper execution of the work. However, the State reserves the right to hire subcontractors (equipment and/or labor) if it will provide a cost savings to the State. The selected contractor is also responsible for clean up of the sites and must have the sites inspected by the State immediately prior to completion.

5.3 Permits. The Contractor is responsible for obtaining all necessary permits for each project, including but not limited to 404 permits, 310 (streambank preservation) permits, other permits, SHPO clearance, and water rights.

5.4 On-Site Requirements/Cleanup. When a contractor is contacted by the State to discuss a project, the State and the contractor will visit the job site to become familiar with conditions relating to the project and labor requirements. The State and chosen contractor will then cooperatively develop project feasibility, conceptual design and cost.

The Contractor shall adequately protect the work, adjacent property, and the public in all phases of the work. The Contractor shall be responsible for all damages or injury due to their action or neglect.

The Contractor shall maintain access to all phases of the project pending inspection by the State or its representative.

All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance.

The Contractor shall respond within seven calendar days after notice of observed defects has been given and shall proceed to immediately remedy these defects. Should the Contractor fail to respond to the notice or not remedy the defects, the State may have the work corrected at the expense of the Contractor.

In terms of cleanup, the Contractor shall:

(a) Keep the premises free from debris and accumulation of waste;
(b) Clean up any oil or fuel spills;
(c) Keep machinery clean and free of weeds;
(d) Remove all construction smears and stains from finished surfaces;
(e) Perform finishing site preparation to: (1) limit the spread of noxious weeds, and (2) smooth exposed ground surface to enhance aesthetics, provide sire-footing, and provide uniform bed for future revegetation work before final payment by the State;
(f) Remove all construction equipment, tools and excess materials before final payment by the State; and
(g) Install silt fences as necessary, prevent fall-back of excavated materials, and prevent any other potential violations of federal or state water protection laws during the period of construction.

5.5 Work Acceptance. The Contractor is responsible for project oversight as needed. The State may also periodically provide personnel for administrative oversight from the initiation of the contract through project completion. All work will be inspected by the State or designated liaison prior to approval of any contract payments. All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance. Contractor shall respond within seven calendar days after notice of defects has been given by the State and proceed to immediately remedy all defects.

5.6 Records. The Contractor will supply the State with photo documentation of methods of habitat restoration progress throughout project implementation. Contractor will maintain records for themselves and all subcontractors of supplies, materials, equipment and labor hours expended.

5.7 Communication. During a project the chosen contractor is required to make weekly contact with the State liaison, or other parties designated by the State for communications, to make arrangements for field inspections and project compliance. This communication must be made in person or by telephone conversation with designated liaisons. Voice mail recordings will not be considered communication unless approved by the State's project contact.

Remoteness of project sites may necessitate that the Contractor have some form of field communication such as a cellular phone. This communication is necessary to enable the State to respond to public concerns related to the project, accidents, inspections, or other project issues that require immediate feedback. Weekly communication will commence when the chosen contractor initiates project implementation.

5.8 Project Monitoring and Reports to the Corps of Engineers. The Contractor is responsible for monitoring their projects and reporting to the Corps of Engineers about the development of wetland and stream function resulting from the project. In this way, the Corps will know whether wetland credit for the project has been earned.

5.9 Change Of Staffing. Since qualifications of personnel were key in determining which offeror's were selected to be on this term contract, a written notification to the State Agency requesting services of any contractor changes of key personnel must be made prior to entering into negotiations to perform any specific work scope. Contractor shall replace such employee(s) at its own expense with an employee of substantially equal abilities and qualifications without additional cost to the Agency. If these staffing changes cause the contractor to no longer meet the qualifications stated herein, that firm will be removed from the service area of this term contract. Failure to notify the State Agency of staffing changes could result in the contractor being removed from the term contract listing and possible suspension from bidding on other State projects.

5.10 Collaboration on Potential Projects. The State encourages collaboration between Contractors to increase the scope and effectiveness of services offered. All subcontractors to be used in any project must be approved by FWP or the authorized entity initiating the project.

6. PROJECT SELECTION

The State will be responsible for identifying projects, contacting landowners and securing necessary permission/cooperation agreements, selecting a contractor, writing grant applications and approving project payments.

The State will not initiate projects where it is known that hazardous materials are present. If there is an indication of a potential of hazardous materials, then the State will do testing prior to contacting the Contractor. However, there is always the possibility of unforeseen problems resulting in the stoppage of a project.

The selected contractor will be required to meet with State personnel at the project site to conduct a site evaluation, discuss project issues and begin the negotiation process on project feasibility, conceptual design and costs for each project.

7. CONTRACTOR SELECTION

The State may select a term contract holder from the Environmental Services Contract-Home page under MT Wetlands Legacy Projects as provided under the state's website address http://www.discoveringmontana.com/doa/gsd/procurement/TermContracts/environservices/Default.asp , taking into consideration such things as the contractor's expertise, requirements and location of the project, the contractor's availability and access to resources necessary to efficiently and effectively complete the project, demonstrated excellent past performance on State and public projects, identified subcontractors and total project cost**.**

7.1 General. Ordering agencies shall use the procedures in this section when ordering services priced at hourly rates as established by each Term Contract (TC).

7.2 Request for Quotation (RFQ) procedures. The ordering agency must provide an RFQ, which includes the statement of work and limited but specific evaluation criteria (*e.g.*, experience and past performance), to all TC contractors. The RFQ may be posted to the agency's state website to expedite responses.

7.3 Statement of Work (SOW's). All SOW's shall include at a minimum a detailed description of the work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements (*e.g.*, security clearances, travel, special knowledge).

(1) Ordering agency may select a contractor from the appropriate list and directly negotiate a mutually acceptable project based on a sudden and unexpected happening or unforeseen occurrence or condition, which requires immediate action (Exigency).

(2) Ordering agency may place orders at, or below the $5,000 threshold with any term contract contractor that can meet the agency's needs. The ordering agency should attempt to distribute orders among all contractors.

(3) For orders estimated to exceed $5,000 but less than $25,000.

(i) The ordering agency shall develop a statement of work.
(ii) The ordering agency shall provide the RFQ (including the statement of work and evaluation criteria) to at least three TC contractors.
(iii) The ordering agency shall request that contractors submit firm-fixed prices to perform the services identified in the statement of work.

(4) For orders estimated to exceed $25,000. In addition to meeting the requirements of 3 above, the ordering agency shall:

(i) Provide the RFQ (including the statement of work and the evaluation criteria) to all TC contractors .

7.4 Evaluation. The ordering agency shall evaluate all responses received using the evaluation criteria provided in the RFQ to each TC contractor. The ordering agency is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable. The agency will place the order with the contractor that represents the best value. After award, ordering agencies will provide timely notification to unsuccessful TC contractors. If an unsuccessful TC contractor requests information on a task order award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.

7.5 Minimum documentation. The ordering agency shall document:
(1) The TC contractors considered, noting the contractor from which the service was purchased;
(2) A description of the service purchased;
(3) The amount paid;
(4) The evaluation methodology used in selecting the contractor to receive the order;
(5) The rationale for making the selection;
(6) Determination of price fair and reasonableness.

Agency project task orders will be utilized to finalize the project. Only written addenda will be used for adjustments of the task orders and must be signed by both parties. All task orders must contain signatures from both parties and appropriate agency legal review as directed in their procurement policy.

The State will monitor contractor selection by using the information provided in the annual term contract usage reports.

Contractor's who fail to respond to three (3) RFQ opportunities within a one-year period between July 1st and June 30th, may be removed from the qualified list of contractors.

8. CONSIDERATION/PAYMENT

8.1 Payment Schedule. In consideration for the Montana Wetlands Legacy projects to be provided, the State shall pay according to the prices listed in Attachment B. Project budgets will be negotiated for each individual project. However, all rates, terms and conditions set forth in this term contract will be applied to individual contracts.

8.2 Invoicing Methods. The State reserves the right to choose the invoicing method from the following: (1) Prime contractor's billing will include the subcontractors charges and payment will be made to the prime; or (2) Prime and subcontractors will bill the State separately and the State will pay each directly.

8.3 Withholding of Payment. The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

9. COST/PRICE ADJUSTMENTS

9.1 Price Increases Negotiated Based on Increases in Contractor's Costs. Price increases may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the State. Any price increases must be based on demonstrated industry-wide or regional increases in the Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value.

Contractor must provide written, verifiable justification for any cost adjustments they request during each renewal period. Contractor shall provide its cost adjustments in both written and electronic format.

10. TERM CONTRACT REPORTING

Term contract holder(s) shall furnish annual reports of term contract usage. Each report shall contain the project description, total dollars expended, and the name of the agency purchasing the services. The first report for this term contract will be due July 16, 2005.

Reported volumes and dollar totals may be checked by the State Procurement Bureau against State records for verification. Failure to provide timely or accurate reports is justification for cancellation of the contract and/or justification for removal from consideration for award of contracts by the State.

11. CONTRACTOR REGISTRATION

The Contractor is required to be registered with the Department of Labor and Industry under sections 39-9-201 and 39-9-204, MCA, *prior* to contract execution. The State cannot execute a contract for construction to a Contractor who is not registered and may award the contract to the next responsive vendor if registration is not completed in a timely manner. (Mont. Code Ann. § 39-9-401.)

Contractor Registration Number: 149142

12. CONTRACTOR WITHHOLDING

Section 15-50-206, MCA, requires the state agency or department for whom a public works construction contract over $5,000 is being performed, to withhold 1 percent of all payments and to transmit such monies to the Department of Revenue.

13. MONTANA PREVAILING WAGE REQUIREMENTS

Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of $25,000 for construction or

nonconstruction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Unless superseded by federal law, at least 50% of the workers of each contractor engaged in construction services must be performed by bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

In addition, unless superseded by federal law, all employees working on a public works contract shall be paid prevailing wage rates in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Montana law requires that all public works contracts, as defined in section 18-2-401, MCA, in which the total cost of the contract is in excess of $25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Furthermore, section 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with section 18-2-423, MCA. Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis.

Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.

The nature of the work performed or services provided under this contract meets the statutory definition of a "public works contract" under section 18-2-401(11)(a), MCA, and falls under the category of Heavy Construction and Nonconstruction services. The booklets containing Montana's 2003 Rates for Heavy Construction and Nonconstruction Services are attached.

The most current Montana Prevailing Wage Booklet will automatically be incorporated at time of renewal. It is the contractor's responsibility to ensure they are using the most current prevailing wages during performance of its covered work.

14. ACCESS AND RETENTION OF RECORDS

14.1 Access to Records. The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

14.2 Retention Period. The Contractor agrees to create and retain records supporting the Montana Wetlands Legacy projects for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

15. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

The Contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the State. (Mont. Code Ann. § 18-4-141.) The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

16. HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

17. REQUIRED INSURANCE

17.1 General Requirements. The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

17.2 Primary Insurance. The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

17.3 Specific Requirements for Commercial General Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of $1,000,000 per occurrence and $2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

17.4 Additional Insured Status. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

17.5 Specific Requirements for Automobile Liability. The Contractor shall purchase and maintain coverage with split limits of $500,000 per person (personal injury), $1,000,000 per accident occurrence (personal injury), and $100,000 per accident occurrence (property damage), OR combined single limits of $1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

17.6 Additional Insured Status. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

17.7 Specific Requirements for Professional Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of $1,000,000 per occurrence and $2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

17.8 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, and volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

17.9 Certificate of Insurance/Endorsements. A certificate of insurance from insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

18. COMPLIANCE WITH THE WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, upon expiration.

19. COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

20. INTELLECTUAL PROPERTY

All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to the State for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

21. PATENT AND COPYRIGHT PROTECTION

21.1 Third Party Claim. In the event of any claim by any third party against the State that the products furnished under this contract infringe upon or violate any patent or copyright, the State shall promptly notify Contractor. Contractor shall defend such claim, in the State's name or its own name, as appropriate, but at Contractor's expense. Contractor will indemnify the State against all costs, damages and attorney's fees that accrue as a result of such claim. If the State reasonably concludes that its interests are not being properly protected, or if principles of governmental or public law are involved, it may enter any action.

21.2 Product Subject of Claim. If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for the State the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by the State shall be prevented by injunction, the State will determine if the Contract has been breached.

22. CONTRACT TERMINATION

22.1 Termination for Cause with Notice to Cure Requirement. The State may terminate this contract for failure of the Contractor to perform any of the services, duties, or conditions contained in this contract after giving the Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded

performance is not completed within the specified period, the termination is effective at the end of the specified period.

22.2 Reduction of Funding. The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See Mont. Code Ann. § 18-4-313(3).)

23. STATE PERSONNEL

All project management and coordination on behalf of the State shall be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed pursuant to this contract shall be coordinated between the State's liaison and the Contractor's liaison.

23.1 State Contract Manager. The State Contract Manager identified below will be the single point of contact for the coordination of all contract issues under this contract. The State Contract Manager will meet with the Contractor Contract Manager and/or others necessary to resolve any conflicts, disagreements, or other contract issues.

The State Contract Manager for this contract is:

Robert Oliver, Contracts Officer
State Procurement Bureau
Room 165, Mitchell Building
125 North Roberts
PO Box 200135
Helena MT 59620-0135
Telephone #: (406) 444-0110
Fax #: (406) 444-2529
E-mail: ROliver@mt.gov

23.2 State Project Manager. The State Project Manager identified below will manage the day-to-day project activities on behalf of the State.

The State Project Manager for this contract is:

Tom Hinz, Coordinator
Montana Wetlands Legacy
1400 South Nineteenth
Bozeman MT 59718
Telephone #: (406) 994-7889
Fax #: (406) 994-4090
E-mail: thinz@montana.edu

24. CONTRACTOR PERSONNEL

24.1 Identification/Substitution of Personnel. The personnel identified or described in the Contractor's proposal shall perform the services provided for the State under this contract. Contractor agrees that any personnel substituted during the term of the contract must be able to conduct the required work to industry standards and be equally or better qualified than the personnel originally assigned. The State reserves the right to approve Contractor personnel assigned to work under the contract, and any changes or substitutions to such personnel. The State's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve the Contractor to perform and be responsible for its obligations under this Contract. The State reserves the right to require Contractor personnel replacement. In the event that Contractor personnel become unavailable, it will be the Contractor's responsibility to provide an equally qualified replacement in time to avoid delays to the work plan.

24.2 Contractor Contract Manager. The Contractor Contract Manager identified below will be the single point of contact to the State Contract Manager and will assume responsibility for the coordination of all contract issues under this contract. The Contractor Contract Manager will meet with the State Contract Manager and/or others necessary to resolve any conflicts, disagreements, or other contract issues.

The Contractor Contract Manager for this contract is:

John Muhlfeld, Hydrologist
PO Box 1722
Whitefish, MT 59937
Telephone #: (406) 862-4927
Fax #: (406) 862-4963
Cell Phone #: (406) 250-9301
E-mail: jmuhlfeld@riverdesigngroup.net

Matt Daniels, P.E.
PO Box 1722
Whitefish, MT 59937
Telephone #: (406) 862-4927
Fax #: (406) 862-4963
Cell Phone #: (406) 250-8107
E-mail: mdaniels@riverdesigngroup.net

Troy Brandt, Fisheries Biologist
6029 SW 33rd Place
Portland, OR 97239
Telephone #: (503) 244-1535
Fax #: (503) 244-1535
Cell Phone #: (406) 250-0841
E-mail: tbrandt@riverdesigngoup.net

Amy Beussink, Hydrologist/GIS Analyst
PO Box 1722
Whitefish, MT 59937
Telephone #: (406) 862-4927
Fax #: (406) 862-4963
Cell Phone #: (406-270-0905
E-mail: abeussink@riverdesigngroup.net

24.3 Contractor Project Manager. The Contractor Project Manager identified below will manage the day-to-day project activities on behalf of the Contractor:

The Contractor Project Manager for this contract is:

John Muhlfeld, Hydrologist
PO Box 1722
Whitefish, MT 59937
Telephone #: (406) 862-4927
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Telephone #: (406) 862-4927
Fax #: (406) 862-4963
Cell Phone #: (406-270-0905
E-mail: abeussink@riverdesigngroup.net

25. MEETINGS

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

26. CONTRACTOR PERFORMANCE ASSESSMENTS

The State may do assessments of the Contractor's performance. This contract may be terminated for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to terminate this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract termination. Performance assessments may be considered in future solicitations.

27. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

28. CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

29. SCOPE, AMENDMENT AND INTERPRETATION

29.1 Contract. This contract consists of 11 numbered pages, any Attachments as required, RFP #SPB04-878P**,** as amended and the Contractor's RFP response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

29.2 Entire Agreement. These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

30. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT BUREAU
PO BOX 200135
HELENA MT 59620-0135

BY: Penny Moon, Contracts Officer
(Name/Title)

BY: _____
(Signature)

DATE: _____

RIVER DESIGN GROUP, INC.
911 WISCONSIN AVE.
WHITEFISH MT 59937
FEDERAL ID # 75-3125545

BY: _____
(Name/Title)

BY: _____
(Signature)

DATE: _____

ATTACHMENT A
CONTRACTOR'S RFP RESPONSE

Section 3: Scope of Project

3.0. River Design Group, Inc. understands and will comply.
3.0.1. River Design Group, Inc. understands and will comply.
3.0.2. River Design Group, Inc. understands and will comply.
3.0.3. River Design Group, Inc. understands and will comply.
3.0.4. River Design Group, Inc. understands and will comply.
3.0.5. River Design Group, Inc. understands and will comply.
3.0.6. River Design Group, Inc. understands and will comply.
3.0.7. River Design Group, Inc. understands and will comply.
3.1. River Design Group, Inc. understands and will comply.
3.2. River Design Group, Inc. understands and will comply.
3.3. River Design Group, Inc. understands and will comply.
River Design Group, Inc. understands and will comply.

3.3.1. Design Expectations

RDG's primary considerations in regard to stream restoration projects are to restore the potential form and function of the river corridor. Developing prescriptions for restoring an impaired river corridor is ideally pursued through a master plan. The master plan assesses the river corridor at the watershed scale to evaluate land uses, sources of channel instability, riparian impairment, channel departure from reference or potential functioning condition, and opportunities for restoration. While preparation of a master plan is not always possible or preferable based on project goals, the master plan is critical for identifying and prioritizing restoration opportunities.

Addressing river corridor impairment requires evaluating channel form and function, floodplain accessibility, and riparian condition. The state of the channel's form and function highlight upland, upstream, and local effects. Determining the probable stable form and the range of likely channel functions is essential for predicting restoration success. Optimizing channel form and function is achieved by restoring the proper bankfull plan form, cross-sectional, and longitudinal profile dimensions, while providing a floodplain of sufficient area based to convey the predicted flood series.

Channel accessibility to the adjacent floodplain is critical for maintaining channel functions. Floodplains provide the river with a surface for floodwater dissipation, sediment retention, and habitat creation. Riparian wetlands are an integral link between the floodplain and the adjacent river channel. Past floodplain-modifying land use practices have disconnected rivers from floodplains and degraded the beneficial functions of floodplains and their embedded wetlands. Although these alterations have negatively affected the diversity of floodplain environments, there remain substantial opportunities for restoring river-floodplain interactions and riparian wetlands.

Re-establishing riparian vegetation is often a challenging task in the intermountain west due to coarse substrates, droughty conditions, and the short growing season. While site conditions may be difficult, restoring riparian vegetation is a requirement for long-term project stability and success. Many of western Montana's streams reveal the historical removal of gallery riparian forests necessary for improving agricultural efficiency. Though vegetation removal may have resulted in short-term land use gains, we continue to see the legacy of this disturbance in aggrading streams with poor riparian cover. Removal of large woody debris and loss of future wood recruitment to streams will perpetuate the simplified channel conditions that are evident in many rivers of western Montana. To address these conditions in an effort to re-establish historical riparian vegetation communities, River Design Group is increasingly relying on other skilled restoration professionals for implementing revegetation plans as critical components to RDG's river corridor restoration projects.

Project Development

RDG approaches river corridor restoration with a diverse team to identify aquatic resource impairments, develop restoration prescriptions, and implement final restoration plans. To initiate this process, RDG favors meeting with local stakeholders and the involved agency representatives in order to establish project goals and objectives. Incorporating all interested stakeholders in this process is a requirement for project efficiency and ultimate success.

Following development of the project scope of work, RDG initiates field data collection using standard procedures and innovative techniques. RDG's professionals have completed Wildland Hydrology's series of hydrology courses and are well versed in US Forest Service and US Geological Survey hydrologic techniques. To complement standard field data collection methods, RDG offers its clients state-of-the-art spatial analysis using ArcGIS, AutoCAD, and DIME® rectified photogrammetric software. Hydraulic modeling software (HEC-RAS) is interfaced with AutoCAD to model existing river conditions.

Following field data collection, RDG analyzes the existing river attributes to the potential functioning condition in order to estimate the degree of channel departure from the likely functioning channel state. This task is completed by comparing reference channel condition characteristics. Pertinent reference reach data are typically collected in the focus watershed when stable reaches are present. When suitable functioning reaches are not located in the focus or nearby watershed, RDG applies its reference reach database that is built on data collected on stable streams in Montana, Idaho, Oregon, and Colorado. Conducting the departure analysis suggests the degree of channel divergence from the potential functioning condition. This information is necessary for prioritizing project reaches, evaluating project risks, and exploring possible restoration treatments.

Once stream reaches have been prioritized, RDG initiates the channel design phase of the restoration process. Hydrology data collected form stream gaging stations or developed from regional equations, are necessary to estimate the approximate bankfull discharge or average annual discharge. Incorporating the hydrology data with dimensionless coefficients derived from the reference reach channel dimensions is then completed to establish a range of values for the channel dimensions, geometry, and profile.

The design channel is modeled in HEC-RAS using the estimated channel dimensions from the reference reach analysis, existing channel sediment particle distribution, and the design channel slope. The hydraulic model assesses low flow, bankfull, and larger magnitude flows; water velocity and shear stress; and sediment transport capacity. Riffle, run, and pool facet slopes are calculated to evaluate the distribution of stream energy and sediment transport properties of the design channel. With draft channel and longitudinal profile dimensions completed, the draft channel geometry is produced in AutoCAD. The channel geometry is modified to account for valley slope and width, floodplain attributes, vegetation condition, and site constrictions such as infrastructure.

With the conceptual design report and engineered plan set completed, RDG works with the project sponsors to complete the necessary permitting. RDG is experienced in acquiring local, state, and federal permits required for restoration projects. Increasingly, RDG is also completing wetland determinations and delineations to minimize wetland impacts during construction, and/or to increase riparian wetland acreage in conjunction with river restoration projects. Understanding not only river functions, but floodplain and wetland functions as well, is critical to maximizing project benefits.

Upon permit approval, RDG completes the construction stake-out. During this phase of construction planning, the design alignment is staked-out on the ground. The design alignment is then re-surveyed to calibrate the final design surface. This usually results in some fine design modifications that are relayed to the permitting agencies for final approval. Channel construction ensues once the design is finalized.

RDG works with several heavy equipment operators to complete the channel construction. These operators are skilled equipment handlers that are essential to successfully implementing the project design. Prior to construction, RDG works with the equipment operators to implement construction best management practices (BMPs) to minimize the area of disturbance. Example BMPs include clear water diversions, establishing

material staging areas, deploying trash pumps for dewatering, and erecting silt fences around sensitive areas. RDG provides construction oversight during project implementation to ensure that permit requirements are met, the project is constructed as designed, and to assist the equipment operators so that the project is completed as efficiently as possible. Our experienced operators are valuable assets for implementing restoration projects.

The final construction phase focuses on site revegetation. RDG collaborates with Northwest Revegetation and Ecological Restoration, Inc. (NWRER) to design and implement site revegetation plans. Using NWRER's patented planting equipment, project sites are planted using native cuttings and containerized stock. RDG and NWRER also partner with Bitterroot Restoration Inc. (BRI) for seed and plant materials collection, planting design, and plant installation. RDG has developed a new relationship with Geum Environmental Consulting for accomplishing facets of project development. Additional information for these subcontractors is provided in Appendix C.

Depending on stakeholder goals and permitting requirements, RDG will prepare and conduct project effectiveness monitoring. Monitoring typically involves resurveying the constructed channel, measuring water temperatures, evaluating plant survival, and sampling water quality and aquatic macroinvertebrates.

In summary, RDG views project development as a multi-phased process that begins with evaluating the existing river corridor conditions; followed by designing a restoration treatment that leads to implementation of the design; and culminating with a monitoring plan to assess the level of project goal achievement.

3.3.2. River Design Group, Inc. understands and will comply.
3.3.3. River Design Group, Inc. understands and will comply.
3.3.4. River Design Group, Inc. understands and will comply.
3.3.5. River Design Group, Inc. understands and will comply.
3.3.6. River Design Group, Inc. understands and will comply.
3.3.7. River Design Group, Inc. understands and will comply.
3.3.8. River Design Group, Inc. understands and will comply.
3.3.9. River Design Group, Inc. understands and will comply.
3.3.10. River Design Group, Inc. understands and will comply.

3.3.11 Subcontractors

- **Equipment Operators**

River Design Group, Inc. (RDG) has included rate listings for six heavy equipment operation companies who have worked with RDG on prior restoration projects. The five equipment operators include:

Elk Creek Contracting
Kirby Excavating
Riding High Excavating
Aquatic Contracting
Rocky Mountain Excavating
Glacier Excavation and Rock

- **Stream and Wetland Restoration Companies**

RDG will function as the stream and wetland restoration contractor for this proposal. RDG has also teamed with Bitterroot Restoration Inc. (BRI) and Geum Environmental Consulting (GEC) for subcontracting services.

- **Riparian Revegetation Specialists**

RDG has teamed with BRI, GEC, and Northwest Revegetation and Ecological Restoration, Inc. (NWRER) to perform riparian revegetation work.

Section 4: Offeror Qualifications

4.0 River Design Group, Inc. understands and will comply.
4.1 River Design Group, Inc. understands and will comply.

4.1.1. References

The following section includes Montana project references for several projects RDG personnel have completed while RDG employees or under previous employers. The included projects emphasize stream assessments and restoration projects.

Project Name: Grave Creek Demonstration River Restoration Project

Company: Water Consulting, Inc.
Client: Kootenai River Network, MFWP

Project Location: Grave Creek near Eureka, MT.
Contact Information:
Mrs. Caroline Stamy
carolynstamy@libby.org
406.293.8754
Project Period: 01/2001 to 11/2001

Provided Services
- ✓Photogrammetry
- ✓Surveying
- ✓Hydraulic Modeling
- ✓Design
- ✓Construction Oversight
- ✓Revegetation

Project Description: River Design Group, Inc. completed ground surveys, photogrammetry, and hydraulic modeling necessary for designing a demonstration river restoration project on Grave Creek in northwestern Montana. As the initial phase in a multi-year project, RDG oversaw the reconstruction of 1,000 ft of channel; stabilization of an eroding terrace; placement of two grade control structures and bank stabilization structures; floodplain grading; and fish habitat improvement. NWRER provided revegetation.

Channel Reconstruction, Bank Stabilization, and Fish Habitat After 2 Years

Key Personnel:
John Muhlfeld – Project manager, data collection, design, construction oversight
Andy Belski – Survey and AutoCAD design

Slope Stabilization, Grade Control, and Fish Habitat After 2 Years

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Project Name: Grave Creek Phase 1 River Restoration Project

Company: Water Consulting, Inc.
Client: Kootenai River Network, MFWP

Project Location: Grave Creek near Eureka, MT.
Contact Information:
Mrs. Caroline Stamy
carolynstamy@libby.org
406.293.8754
Project Period: 01/2002 to 11/2002

Provided Services
- ✓Photogrammetry
- ✓Surveying
- ✓Hydraulic Modeling
- ✓Design
- ✓Construction Oversight
- ✓Revegetation

Project Description: River Design Group, Inc. completed ground surveys, photogrammetry, and hydraulic modeling necessary for designing a river restoration project on Grave Creek in northwestern Montana. As the first phase in a multi-year project, RDG oversaw the reconstruction of a 5,000 ft reach of the rain-on-snow, gravel bed river. Ground surveys and photogrammetry were overlaid on recent aerial photographs to provide a near-real time construction plan. The channel design relied on downstream reference reach data, hydraulic modeling, and construction oversight. Kirby Excavating completed the channel construction work. NWRER planted the project area in 2003.

Fish Habitat

Channel Reconstruction

Woody Debris Jam

Key Personnel:
John Muhlfeld – Project manager, data collection, design, construction oversight
Andy Belski – Survey and AutoCAD design
Matt Daniels – Engineering, AutoCAD design
Troy Brandt – Construction oversight, monitoring

Project Name: Whitepine Creek Assessment and Channel Reconstruction

Company: Water Consulting, Inc.
Client: Whitepine Creek Watershed Council, MFWP

Project Location: Whitepine Creek near Trout Creek, MT.
Contact Information:
Mr. Mike Miller, Coordinator
mmiller@blackfoot.net
406.847.5560
Project Period: 02/2002 to 11/2002

Provided Services
- ✔Photogrammetry
- ✔Surveying
- ✔Hydraulic Modeling
- ✔Design
- ✔Construction Oversight
- ✔Revegetation

Project Description: This project included an assessment of the lower White Pine Creek watershed and prioritization of potential restoration projects. Four restoration project recommendations were implemented in November and December 2002. The projects included relocating a vertically unstable channel, buffering a high eroding terrace with a bankfull bench, and improving fish habitat with grade control, bank stabilization, and fish habitat structures incorporating large woody debris. Approximately 2,000 feet of channel were rebuilt among the four projects. Over 30 grade control, bank stabilization, and fish habitat structures were completed. Revegetation was completed by NWRER in 2002.

Woody Debris Jam

Key Personnel:
Troy Brandt - Project management, data collection, report preparation, construction oversight, monitoring
Matt Daniels, P.E. - Construction oversight
Andy Belski - Photogrammetry, land surveying, AutoCAD design
Ted Belcer – AutoCAD, surveying, monitoring


Channel Reconstruction


Grade Stabilization


Fish Habitat

Project Name: Bull River Channel Assessment and Reconstruction

Company: Water Consulting, Inc.
Client: Bull River Watershed Council, MFWP, Avista

Project Location: Bull River near Noxon, MT.
Contact Information:
Mr. Mike Miller, Coordinator
mmiller@blackfoot.net
406.847.5560
Project Period: 9/2001

Provided Services
- ✓Photogrammetry
- ✓Surveying
- ✓Hydraulic Modeling
- ✓Design
- ✓Construction Oversight
- ✓Revegetation

Project Description: The Bull River is a major bull trout-spawning tributary to the Lower Clark Fork River drainage in western Montana. Project scope included the design and implementation of approximately 1,000 feet of restored stream channel. One of the primary objectives was to stabilize an eroding middle Holocene terrace migrating laterally at an estimated rate of 2.0 feet per year. Design and construction services included terrace shaping, construction of a bankfull floodplain adjacent to the stabilized terrace, and installation of 12 bank placed rootwad composite structures and log vanes. Revegetation was completed by NWRER in 2002.


Pre-construction 2001


As-Built 2001

Key Personnel:
John Muhlfeld – Project manager, data collection, design, construction oversight
Andy Belski – Survey and AutoCAD design
Troy Brandt – Monitoring

After 2 Years (2003)

After 2 Years (2003)

Project Name: South Fork Bull River Reconstruction

Company: Water Consulting, Inc. & River Design Group
Client: Bull River Watershed Council

Project Location: South Fork Bull River near Noxon, MT.
Contact Information:
Mr. Don Love, Coordinator
406.847.2036
Project Period: 8/2003

Provided Services
- ✔Surveying
- ✔Hydraulic Modeling
- ✔Design
- ✔Construction Oversight

Project Description: The South Fork Bull River was impacted by a major debris torrent in the 1980s, resulting in braided channel conditions and elevated sediment supply to critical bull trout habitat. Pursuant to the recommendations outlined in the Bull River Watershed Assessment, a restoration project was implemented to re-establish physical connectivity, restore proper pool to riffle ratios, and mitigate chronic sources of sediment. Key project components included:

- Geomorphic departure analysis of project area
- Reference reach surveys to determine design
- Total station survey and AutoCAD design
- Fish habitat structure design
- Construction management and implementation

The project restored approximately 700 feet of degraded bull trout habitat and mitigated a chronic source of fine sediment to the project area and downstream reaches. Native material revetments including large, engineered debris jams and cobble patches were used for channel reconstruction.

Reconstructed Channel

Debris Jam Plug on Old Avulsion Channel

Constructed Channel Segment

Key Personnel:
John Muhlfeld – Project manager, data collection, design, construction oversight
Andy Belski – Survey and AutoCAD design
Troy Brandt – Construction oversight
Matt Daniels – Engineering design
Ted Belcer – Survey, AutoCAD design, and oversight

Reconstructed Channel with Woody Debris and Cobble Patch Grade Control Structure

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Project Name: Therriault Creek Assessment and Reconstruction

Company: River Design Group
Client: Kootenai River Network, USFWS, MFWP

Project Location: Therriault Creek near Eureka, MT.
Contact Information:
Mrs. Caroline Stamy
carolynstamy@libby.org
406.293.8754
Project Period: Under Construction

Provided Services
- ✔Photogrammetry
- ✔Surveying
- ✔Hydraulic Modeling
- ✔Design
- ✔Construction Oversight
- ✔Revegetation

Project Description: Therriault Creek is an important historical westslope cutthroat and bull trout tributary to the Tobacco River. The stream is currently channelized and severely incised relative to its historical condition. Key project components included:

- Geomorphic departure analysis of project area
- Reference reach surveys to determine design
- Total station survey and AutoCAD design
- Off-channel wetland creation from existing ditch
- Construction management and implementation

The project involves constructing 8,000 ft of E stream type on the former floodplain. Project construction includes placement of cobble patches, over 200 pieces of wood, and site revegetation. Project goals include improving channel function and channel-floodplain connectivity, diversifying fish habitat, and improving the fish migration corridor between the Tobacco River and headwater spawning areas.

Existing Incised Condition

Downstream Reference Reach

Channel Construction

Key Personnel:
John Muhlfeld – Project manager, data collection, design, construction oversight
Andy Belski – Survey and AutoCAD design
Troy Brandt – Construction oversight
Matt Daniels – Engineering design
Ted Belcer – Survey, AutoCAD design, and oversight
Jonathan Ferree – Construction oversight

Reconstructed Channel with Woody Debris Fish Habitat

Project Name: Pilgrim Creek Assessment and Conceptual Design

Company: River Design Group
Client: Pilgrim Creek Watershed Council, Avista, MFWP

Project Location: Pilgrim Creek near Noxon, MT.
Contact Information:
Mr. Brad Liermann
bliermann@blackfoot.net
406.827.9282
Project Period: 2003

Provided Services
- ✔Photogrammetry
- ✔Surveying
- ✔Hydraulic Modeling
- ✔Departure Analysis
- ✔Conceptual Design

Project Description: Pilgrim Creek is a tributary to the Lower Clark Fork River and historically supported fluvial and adfluvial westslope cutthroat trout and bull trout. RDG completed a watershed assessment and conceptual designs for prioritized restoration projects. Key project components included:

- Channel stability analysis
- Geomorphic departure analysis of project area
- Reference reach surveys to determine design parameters
- Sediment source surveys
- Conceptual designs and cost estimates

Future restoration projects will focus on reducing sediment loading to Pilgrim Creek which is included on the State's 303(d) list. RDG will work with Avista, DEQ, and MFWP in the future to implement recommended restoration projects.

Key Personnel:
Troy Brandt – Project manager, data collection, conceptual design, report
Andy Belski – Aerial photo production
Jonathan Ferree – Survey, data analysis


Aggrading Reach


Stable Debris Jam


Reference B Stream Type

Project Name: Prospect Creek Assessment and Conceptual Design

Company: River Design Group
Client: Green Mountain Conservation District

Project Location: Prospect Creek near Thompson Falls, MT.
Contact Information:
Mr. Jay Stuckey
406.827.4823

Project Period: On-going

Provided Services
- ✔Photogrammetry
- ✔Surveying
- ✔Hydraulic Modeling
- ✔Departure Analysis
- ✔Conceptual Design

Project Description: MDEQ and the Prospect Creek Watershed Council initiated TMDL development and water quality restoration planning on Prospect Creek in 2003. The TMDL process will involve 3 discrete phases, including: (1) Watershed Characterization and Reassessment; (2) Pollutant Source Assessment, and (3) Water Quality Planning and TMDL Development. Key completed project components include:


Aggrading Reach

- Geomorphic characterization
- Hydrologic analysis
- Time series aerial photograph analysis
- Rosgen Level III departure analyses and channel succession analysis
- Pollutant source delineation (sediment)
- Riparian assessment
- Conceptual restoration designs for main stem Prospect Creek and tributaries

Road Effects

Bedload

Utility Corridor

Key Personnel:
John Muhlfeld – Project manager, data collection, analysis, report writing
Troy Brandt – Data collection, report writing
Andy Belski – Aerial photo production
Jonathan Ferree – Survey, data analysis, report writing
Amy Beussink – GIS, data collection, analysis, report writing

RDG's principals have performed the following contract work with government agencies over the last three years while working for a previous employer or as RDG employees.

Project Title	Agency	Employer	Project Manager
Grave Creek Phase 2 Reconstruction	MFWP, USFWS	RDG	Muhlfeld
Therriault Creek Reconstruction	MFWP, USFWS	RDG	Muhlfeld
Snake Creek Reconstruction	MFWP	WCI	Muhlfeld
Haskill Creek Reconstruction	MFWP	RDG	Muhlfeld
Prospect Creek Assessment & Conceptual Design	MFWP	RDG	Muhlfeld
Prospect Creek TMDL	DEQ	RDG	Muhlfeld
Pilgrim Creek Assessment & Conceptual Design	MFWP	RDG	Brandt
South Fork Bull River Reconstruction	MFWP	RDG	Muhlfeld
Haskill Creek TMDL	MFWP	RDG	Muhlfeld
Jocko River Master Plan	Conf. Salish & Kootenai Tribe	RDG	Brandt
Stillwater River TMDL	DEQ	RDG	Brandt
Grave Creek TMDL	DEQ	RDG	Muhlfeld
Milltown Assessment	MFWP, DOJ	RDG	Belski
Abbot Creek Fish Passage	MFWP	RDG	Daniels
Grave Creek Demonstration Project	MFWP, USFWS	WCI	Muhlfeld

Grave Creek Phase 1 Reconstruction	MFWP, USFWS	WCI	Muhlfeld
Bull River Bank Reconstruction	MFWP	WCI	Muhlfeld
MFWP Lower Clark Fork Surveys	MFWP	WCI	Brandt
Whitepine Creek Assessment & Construction	MFWP	WCI	Brandt
Lame Deer Creek Assessment & Design	MDOT	WCI	Daniels

4.1.2. Company Qualifications

River Design Group, Inc. is an environmental consulting firm offering hydrology, fisheries, hydrographic surveying, and hydraulic engineering services to private and public entities throughout the Pacific Northwest. Established in August 2003, RDG's principals worked together for a prior employer and have added additional staff since the inception of the company. With offices in Whitefish, Montana and Portland, Oregon, RDG employs a skilled, professional staff with over 35 years of consulting experience. RDG believes that working with natural river systems requires teamwork among multiple professions. As such, the founding principals of RDG have degrees in hydrology, biology, land surveying (hydrographic emphasis) and civil engineering. RDG is committed to providing timely, cost-efficient products and services to local and regional clients.

RDG is uniquely qualified to provide technical stream, wetland, and riparian restoration and rehabilitation consulting services to the State of Montana. RDG employs innovative restoration techniques based on state-of-the-art assessment, design, and construction methods. RDG professionals have completed extensive natural resources training programs to complement their academic backgrounds. To remain current with contemporary restoration practices, RDG employees complete annual training with renowned practitioners in resource assessment and restoration fields. With this foundation, RDG's techniques are continuously evolving in response to previous and on-going stream and wetland restoration projects completed by RDG professionals and other practitioners in the restoration field.

RDG's business philosophy is founded on its commitment to client service, quality control and assurance during all project phases. RDG strives to provide clients with the highest level of professional service by efficiently and cost-effectively completing site assessments, design plan sets, and on the ground project implementation. To achieve this goal, RDG applies the benefits of advanced computer aided technology and principles of natural channel design to produce professional design documents and implement effective restoration projects.
RDG's professionals have been involved with designing, implementing, and managing restoration projects for over three years. Additionally, RDG's professionals have extensive experience in applying the Rosgen Stream Classification System. Two of RDG's principals have completed the suite of Wildland Hydrology's stream restoration classes, a third principal has completed two courses, and RDG's GIS analyst/hydrologist will be completing the last course this fall. RDG regularly applies these techniques and other US Forest Service and US Geological Survey methods for stream assessment and restoration projects.

RDG's Whitefish, Montana office will manage this contract. The office location details are:

911 Wisconsin Avenue
Whitefish, Montana 59937
406.862.4927
rdg@riverdesigngroup.net

Nine employees are currently employed at this office location.

We have developed valuable relationships with fisheries biologists in several Montana Fish, Wildlife & Parks (MFWP) regional offices. RDG professionals have collaborated with MFWP on projects ranging across western Montana. Representative projects have typically focused on restoring rivers and streams to improve aquatic habitat for native fish communities. Restoration designs aim to construct diverse, stable habitats for westslope cutthroat trout and the threatened bull trout. These projects have required close coordination between our professionals and MFWP's fisheries biologists in order to ensure project success. These

partnerships have not only yielded beneficial restoration projects completed on time and on budget, but have also led to valuable relationships between RDG and MFWP throughout the region.

4.1.3. Subcontractor Experience

RDG is teaming with three revegetation firms, two of which also provide restoration consulting services. The firms include Bitterroot Restoration Inc. (BRI), Geum Environmental Consulting (GEC), and Northwest Revegetation and Ecological Restoration, Inc. (NWRER). These firms are headquartered in the Bitterroot Valley, but are involved with projects throughout western Montana and in other states. Additional summary information for these firms is included in the following sections.

Bitterroot Restoration, Inc. (BRI) was founded in 1986 to provide comprehensive restoration services to managers of disturbed lands. We constructed our first greenhouse to propagate site-adapted native plants from seed collected in eastern Montana at Peabody Western's Big Sky and Western Energy's Rosebud Mines. By 1991, we were providing a full range of services, including restoration planning, native plant propagation, and implementation to mining companies, the National Park Service, Federal Highway Administration, and other public and private land managers. Our staff includes experienced professionals from the fields of plant and restoration ecology, riparian and wetland ecology, forestry, botany, plant physiology, resource conservation, range management, horticulture, recreation management, landscape architecture, soil science, biology, wildlife biology, GIS, natural resource database design and management, and geology. Our team applies their understanding of ecological principles and knowledge of individual site characteristics to guide a client's restoration efforts. This ecological approach leads to restoration of natural processes and self-sustaining plant communities that, in turn, benefits the local community and reduces maintenance costs for our clients.
Geum Environmental Consulting (Geum) was founded in 2003 in Hamilton, Montana by ecologists and biologists interested in working with the local community to benefit the environment and natural resources. Key employees with Geum have over 20 years combined professional experience working in natural resource disciplines in Montana and the western United States. Services and expertise offered by Geum include:

- Ecological Restoration and Revegetation Planning
- Riparian Restoration Design and Construction Oversight
- Biological Assessments for Endangered Species Act Compliance
- Wetland Restoration and Mitigation Design and Planning
- Riparian and Wetland Assessment
- Wetland Delineation
- Fish Habitat Assessments and Surveys
- Stream and Wetland Permitting
- GIS and Natural Resource Database Application Design and Management, including Web Applications
- Grant Writing

Geum specializes in large-scale, collaborative restoration planning for large watershed areas that involve diverse stakeholders and regulatory entities. Geum's staff has experience implementing all phases of stream and wetland restoration including site characterization, permitting, project design, construction and field crew oversight, and project monitoring. Our primary role as a revegetation specialist subcontractor will be in providing riparian and wetland revegetation expertise for restoration projects, such as the development of planting plans, construction specifications, and project oversight. In addition, Geum may provide technical and labor staff, in addition to those included in this statement of qualifications, on a project by project basis if needed.

Northwest Revegetation and Ecological Restoration, Inc. (NWRER) uses innovative planting equipment to efficiently plant large restoration projects. NWRER's equipment not only permits timely planting of a large number of containerized stock and/or cuttings, but also enables the restoration practitioner to plant surfaces that are typically considered to be "unplantable". The patented Expandable Stinger and Rotary Stinger were developed in 1998 and have been used on revegetation projects in Montana, Idaho, Washington, and Oregon. NWRER is teaming with Bitterroot Restoration Inc. to expand its resources. NWRER does not employ a full-

time staff, but will coordinate with BRI for project management and scheduling. NWRER has collaborated with RDG on seven revegetation projects and has worked with MFWP on several projects in western Montana.

(a)  (b) 

Northwest Revegetation and Ecological Restoration's Expandable Stinger (a) and Rotary Stinger (b).

RDG has established working relationships with six heavy equipment operators. These operators are experienced in all phases of stream reconstruction including BMPs, equipment requirements, channel construction methods, structure specifications, and finished site preparation. Equipment operator summaries are included below.

Elk Creek Excavating based in Heron, Montana has worked with RDG on six restoration projects primarily in the Lower Clark Fork River Drainage since 1997. John Fitchett and Tyler Rehbein are the primary operators for Elk Creek Excavating. Additional technicians and laborers are hired as necessary to complete projects.

Kirby Excavating based in Hamilton, Montana worked with RDG's principals while they were employed by Water Consulting, Inc. Don and Chance Kirby are two of the more experienced operators engaged in restoration projects in western Montana. Chance Kirby has trained with and completed restoration projects for Mr. Dave Rosgen, founder of Wildland Hydrology. Kirby Excavating has completed over twenty restoration projects in western Montana since 1998.

Riding High Excavation based in Eureka, Montana has recently worked with RDG in the Tobacco River Valley. Owned Tim Ryan, Riding High Excavation has access to a large assortment of heavy equipment and smaller support vehicles. RDG looks forward to continuing to work with Riding High Excavation throughout the Tobacco and Flathead valleys. Riding High has been involved with restoration projects for 2 years.

Rocky Mountain Excavating (RME) based in Whitefish, Montana is currently working with RDG on the Therriault Creek reconstruction. RDG worked with RME on a MFWP-sponsored project in 2003 in the Flathead Valley. RME's owner, Jardy Kyner, is a skilled excavator operator with a deft touch and is knowledgeable of stream processes. RME has been involved with restoration projects for 2 years.

Glacier Excavation and Rock, also based in Whitefish, Montana is currently working with Rocky Mountain Excavating and RDG on the Therriault Creek project. Owner-operator Bob Cuffe is working with RDG on his second restoration project. RDG plans to collaborate with Mr. Cuffe on other restoration projects in the Tobacco and Flathead valleys. Mr. Cuffe has been involved with restoration projects for 2 years.

Aquatic Contracting LLC., based in Portland, Oregon is an experienced heavy equipment contractor with completed projects in Oregon and Washington. Owner Michael Herrick has a degree in fisheries biology and was employed by Oregon Department of Fish and Wildlife prior to founding Aquatic Contracting LLC. His

academic background and work experience in the fisheries field make Mr. Herrick a valuable operator especially when improving fish habitat is a restoration project goal. Mr. Herrick has completed over a dozen stream and wetland restoration projects in the Pacific Northwest over the past 5 years.

In summary, RDG has established valuable relationships with its subcontractors. By incorporating the skills of these revegetation specialists and masterful heavy equipment operators, RDG will be able to provide the highest quality projects to Montana Fish, Wildlife & Parks.

4.1.4. Previous Projects

Grave Creek Demonstration Project

Grave Creek Phase 1 Project

Bull River Bank Reconstruction

South Fork Bull River Reconstruction


Pre-Project

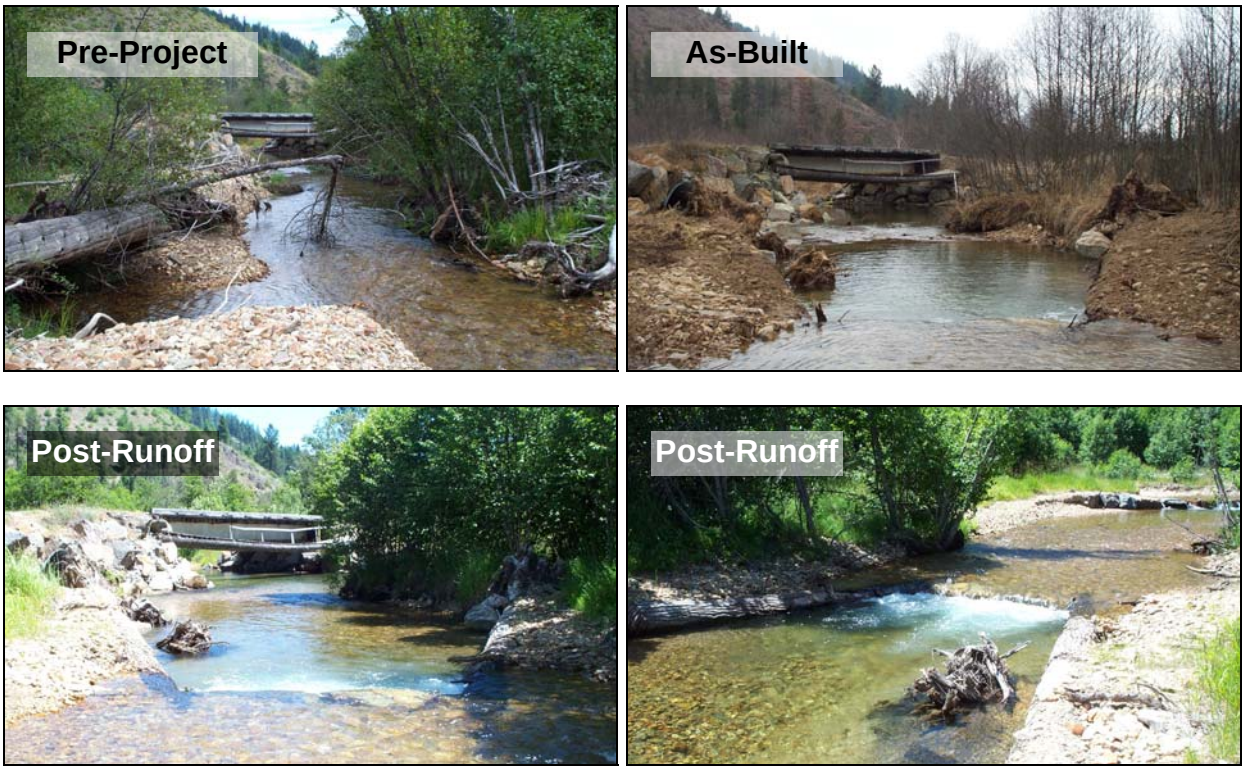

As-Built

Whitepine Creek Assessment and Reconstruction

- **Michaels Reach**

- **Green Cabin Reach**

- **Chambers Reach**



The included before and after project photos are from projects RDG's principals completed while employed by a former employer. RDG's principals were the project managers for each of the projects and completed the majority of the project assessment, design, and construction oversight. These projects are representative of stream reconstruction techniques that RDG typically employs to rebuild the form and function of impaired streams and rivers in western Montana. Monitoring data collected on these projects are analyzed in an effort to improve current project designs. We view past projects as valuable learning tools that enable us to evolve our techniques in order to deliver the highest quality projects to our clients.

4.1.5. Staff Qualifications

RDG is led by professionals experienced in the river corridor restoration field. The management team and employees are respected in their professions, hold multiple professional licenses, have completed advanced degrees and additional training in their areas of expertise, and combined, have over 35 years of professional work experience. RDG personnel who will work on this contract include hydrologists, a geomorphologist, a fisheries biologist, a professional engineer, a land surveyor, and hydrologic technicians. RDG's personnel have specialized training in applied river fluvial geomorphology, hydrology, and stream restoration. RDG also has select experience in wetland determination and delineation, and secondary experience in riparian wetland restoration projects. The following section includes summary statements for each of our employees. More comprehensive resumes are included in Appendix B.

Matt Daniels, PE, holds responsible charge of RDG's engineering works and is located in RDG's Whitefish Office. Matt has over 11 years of experience practicing hydraulic engineering and has participated in over 40 stream restoration and flood control projects. Matt is responsible for all aspects of design engineering for RDG's projects in Montana, Idaho, and Oregon. Matt's background in hydraulic and floodplain modeling using HEC-RAS, and AutoCAD expertise, are critical for the development of RDG's restoration designs. Matt has designed MFWP-sponsored restoration projects in the Lower Clark Fork drainage, Tobacco River drainage, the Flathead River drainage, Blackfoot River drainage, and the Bitterroot valley. He has successfully integrated traditional engineering techniques with natural channel design methods to deliver projects that are developed with engineering rigor, but that maximize fish habitat and permit natural channel processes.

Matt has established an engineering record with the National Council of Examiners for Engineering and Surveying, and is a licensed Professional Engineer in Montana, Idaho, Oregon, California, Utah and Nevada.

Currently, Matt is a member of the American Society of Civil Engineers (ASCE). Also, he has completed the Level I and Level II courses offered by David Rosgen of Wildland Hydrology, Inc. RDG will designate Matt as a project manager and point of contact for Montana Wetlands Legacy Projects. Matt's role for this contract will be as a manager for projects in the Blackfoot and Flathead valleys. Matt will also provide engineering services for all other projects awarded under this contract.

John Muhlfeld*, *Hydrologist, manages RDG's hydrology services section and is located in RDG's Whitefish Office. John has completed the suite (Levels I through IV) of courses offered by David Rosgen of Wildland Hydrology and has continuing education in geomorphology from the University of Indiana. In 10 years of professional experience, he has managed over 50 watershed related projects throughout western Montana while an employee with Land and Water Consulting, Water Consulting, and now as a principal in River Design Group. John supervises RDG's employees and ensures quality control throughout RDG's projects. John is instrumental in all phases of project development including assessment design, data collection, restoration project design, report completion, and construction oversight. He is regularly asked to present at regional conferences concerning restoration practices. John is a member of the American Water Resources Association (AWRA). John's role for this contract will be as a manager for projects in the Tobacco and Flathead Valleys. John will also participate in overseeing projects originating in other areas of Montana.

Andy Belski, PLS, maintains responsible charge for RDG's surveying and mapping services and is located in RDG's Whitefish Office. Andy has over 10 years of experience in applied surveying and computer aided design, and has participated in over 40 stream and watershed projects. Andy is a principal and integral member of the RDG restoration team. Andy's expertise in land survey, remote sensing techniques (e.g. AutoCAD, DIME software), and time-trend aerial imagery production is an essential tool in RDG's ability to assess river corridor alterations over time and spatial. Andy is licensed to practice land surveying in Montana and Idaho, and is a current member of the American Congress of Surveying and Mapping (ASCM). For this project Andy is available for consultation related to property boundary, easement and general land surveying issues that may affect project implementation. Andy will manage all survey components for awarded projects. His participation will also be critical for design plan set development and construction layout.

Troy Brandt, Fisheries Biologist, will be the point of contact for the Montana Wetlands Legacy Projects contract. Having completed his masters degree at the University of Montana in 2000, Troy was employed by Water Consulting, Inc. prior to forming RDG with his three partners. He has completed the suite of courses offered by Mr. David Rosgen of Wildland Hydrology, and contributes to all aspects of RDG's restoration services. Troy's application of natural channel design principles in numerous stream restoration projects make him uniquely qualified for pairing fisheries' requirements with restoration treatments. Troy has also completed training in wetland determination and delineation, wetland design, and wetland construction. Troy participates in all levels of restoration projects including data collection, data analysis, design, construction oversight, and monitoring. Troy is a member of the national, Montana, and Oregon chapters of the American Fisheries Society. Troy's role for this contract will be as a manager for projects in the Bitterroot and Clark Fork valleys. Troy will also participate in overseeing projects originating in other areas of Montana.

Amy Beussink, Hydrologist/GIS Specialist, provides RDG's clients with the unique skills of a GIS specialist with the knowledge of a hydrologist. Amy's broad background enables her to participate in all levels of hydrologic analysis and restoration design. RDG relies on Amy to collect, manage, and analyze watershed data. Her database management expertise allows her to efficiently summarize large datasets and gives RDG a powerful instrument for organizing reference reach data for restoration designs. Prior to joining RDG, Amy was employed by the Lolo National Forest. As a forest hydrologist, she was involved with TMDL development, NEPA assessments, and stream restoration and monitoring projects. Amy has completed the first three courses offered by Mr. David Rosgen of Wildland Hydrology, and has completed advanced training in hydrology, sediment modeling, GIS, and other remote sensing techniques. Amy's role for this contract will be as a manager for projects in the Lower Clark Fork and Tobacco valleys. Amy will also participate in overseeing projects originating in other areas of Montana.

Jonathan Ferree, Fluvial Geomorphologist, will be involved with all aspects of restoration projects. Jonathan's primary office location is RDG's Whitefish, Montana office. He has participated in projects in the Lower Clark Fork Drainage, the Tobacco Valley, and the Bitterroot Valley. Jonathan has extensive experience

in hydrologic analysis, channel surveys, and data analysis and modeling. Following completion of his Masters degree in Fluvial Geomorphology from the University of Wyoming, he was employed by the US Forest Service prior to being a private contractor and then joining RDG. Jonathan's role for this contract will be as a manager for projects in the Blackfoot Valley. Jonathan will also participate in all aspects of projects originating in other areas of Montana.

Ted Belcer, Hydrologic Technician/Survey Technician, is an important member of RDG's land survey and hydrology teams. Ted has participated in over a dozen restoration projects as a survey crew leader. Ted's AutoCAD skills enable him to assist RDG's engineer and land surveyor in drafting design plan sets and typical drawings. He also assists in producing time-trend aerial photographs useful for evaluating river corridor changes over time. Ted will assist in data collection, data management, and project stake out and construction oversight.

Justin Smith, Hydrologic Technician, is a hydrologic technician with RDG, with primary duties focused on field data collection and analysis. Having recently completed his undergraduate program at the University of Montana, Justin gained valuable hands-on experience assisting MFWP and graduate students with stream restoration projects in the Upper Clark Fork Drainage. Justin will provide support to the RDG professionals by completing project tasks including data acquisition and data entry, GIS data organization, reviewing existing reports, and report preparation. Justin's past internship experiences in addition to his educational background will make him a valuable contributor to the RDG effort.

In summary, RDG offers a diverse multidisciplinary team with extensive restoration experience. Academic coursework, professional training, and continuously learning from our projects, has provided our team with a unique understanding of rivers and appropriate restoration treatments. We provide this knowledge base to our clientele in every project RDG undertakes.

APPENDIX A: STANDARD TERMS AND CONDITIONS

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Mont. Code Ann. § 18-4-141.)

AUTHORITY: The following bid, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

COMPLIANCE WITH LAWS: The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

DISABILITY ACCOMMODATIONS: The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors may be required to provide banking information at the time of contract execution in order to facilitate State electronic funds transfer payments.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see http://www.discoveringmontana.com/doa/gsd/css/Resources/ReciprocalPreference.asp.

REFERENCE TO CONTRACT: The contract or purchase order number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at http://www.sos.state.mt.us.

SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the State of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

UNAVAILABILITY OF FUNDING: The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313 (3).)

U.S. FUNDS: All prices and payments must be in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.
